

1 **MINUTES OF THE REGULAR MEETING OF THE**
2 **SAN MARCOS PLANNING AND ZONING COMMISSION**
3 **CITY COUNCIL CHAMBERS**
4 **February 12, 2008**

5
6 **COMMISSIONERS PRESENT:**

Fred A. Terry, Chair
Bill DeSoto, Vice Chair
Sherwood Bishop
Ruben Becerra
Curtis O. Seebeck
Steve Cline
Randy Bryan
Bill Taylor

15
16 **COMMISSIONERS ABSENT:**

Ryan Thomason

18
19 **STAFF PRESENT:**

Cecil Pennington,
Interim Director of Planning
Andy Alarcón, Chief Planner
Chance Sparks, Sr. Planner
Phil Steed, Planner
John Foreman, Sr. Planning Tech.
Francis Serna, Recording Secretary

26
27 **OTHERS PRESENT:** Pat Tessaro, Frank Contreras, Reagan Simon, Ed Tarbutton,
28 Anthony Webb, Misty Iammarino, Frank Greer, Grant Jacobs, Trevor Hale, David
29 Williamson, Richard McDaniel, David Kneuper, Steve Ramsey, Mike Harper and Frank
30 Calabrese.

31
32 **Elections**

- 33 a. Chair
34 b. Vice Chair

35
36 Chair Terry and the Commissioners agreed on consensus to postpone the election of
37 Chair and Vice Chair until all Commissioners were present.

38
39 **COMMISSIONER TAYLOR MADE A MOTION TO POSTPONE THE ELECTION OF**
40 **CHAIR AND VICE CHAIR OF THE PLANNING AND ZONING COMMISSION UNTIL**
41 **THE NEXT REGULAR SCHEDULED PLANNING COMMISSION MEETING ON**
42 **MARCH 11, 2008 UNTIL ALL MEMBERS WERE PRESENT. COMMISSIONER**
43 **BISHOP SECONDED THE MOTION. ROLL WAS CALLED AND THE MOTION**
44 **PASSED ON A VOTE OF 7-1 WITH CHAIR TERRY, VICE-CHAIR DESOTO, AND**
45 **COMMISSIONERS BISHOP, THOMASON, BECERRA, TAYLOR AND BRYAN**
46 **VOTING AYE. COMMISSIONER SEEBECK VOTED NO AND COMMISSIONER**
47 **THOMASON WAS ABSENT.**

1 **Chairperson's Opening Remarks**

2
3 Chair Terry welcomed the audience and called the meeting to order at 6:01 p.m.
4

5
6 **Citizen Comment Period**

7
8 No one signed up to speak.
9

10 COMMISSIONER TAYLOR MADE A MOTION TO ADJOURN INTO EXECUTIVE
11 SESSION. COMMISSIONER SEEBECK SECONDED THE MOTION. ROLL WAS
12 CALLED AND THE MOTION PASSED ON A VOTE OF 8-0 WITH CHAIR TERRY,
13 VICE-CHAIR DESOTO, AND COMMISSIONERS BISHOP, THOMASON, BECERRA,
14 SEEBECK, TAYLOR AND BRYAN VOTING AYE. COMMISSIONER THOMASON
15 WAS ABSENT.

16
17 The Commission went into Executive Session.
18

19 COMMISSIONER SEEBECK MADE A MOTION TO CLOSE THE EXECUTIVE
20 SESSION. COMMISSIONER BECERRA SECONDED THE MOTION. ROLL WAS
21 CALLED AND THE MOTION PASSED ON A VOTE OF 8-0 WITH CHAIR TERRY,
22 VICE-CHAIR DESOTO, AND COMMISSIONERS BISHOP, THOMASON, BECERRA,
23 SEEBECK, TAYLOR AND BRYAN VOTING AYE. COMMISSIONER THOMASON
24 WAS ABSENT.

25
26 There was a ten minute recess due to technical difficulties.
27

28
29 **CUP-08-03. Hold a public hearing and consider a request by Stokes**
30 **Construction, on behalf of Red Simon Ford, for a General Conditional Use Permit**
31 **to allow the use of metal as an exterior building material in a (GC) General**
32 **Commercial zoning district located at 1305 IH 35 South.**

33
34 Chance Sparks advised the Commission that the applicant has requested the use of a
35 metal facade as an exterior building material to their current structure. He explained
36 applicant is not expanding the building and that Section 4.4.2.1 of the Land
37 Development Code states that sheet metal sheet siding in any amount is required by a
38 CUP. Red Simon Ford is requesting to use Ford franchise dealership standards of
39 satin-finished aluminum panels. The applicant initially planned to repair the tiles and
40 was advised by Ford that they are required to modify the façade to incorporate their
41 new dealership standards for appearance. Mr. Sparks mentioned that approval for use
42 of metal siding has been allowed for the future KIA and existing Nissan dealership.
43 Staff does not believe the use of metal, in this case, will have any detrimental effect on
44 neighboring properties. The residential properties are located to the rear or to the side
45 of the face. Mr. Sparks stated that given the current condition of the façade and its
46 architectural style, staff believes the architectural metal face will result in an improved
47 modern appearance. Staff recommended approval of the request as submitted, to

1 allow an architectural metal façade at Red Simon Ford, 1305 IH 35 South. Mr. Sparks
2 mentioned that staff received 15 form letter responses from area property owners in
3 opposition to the request and the letters are located in the Commissioner's reading
4 files.

5
6 Chair Terry opened the public hearing. Frank Contreras, resident of 213 Parker Drive,
7 expressed his appreciation for the property owner notification and thanked the
8 Commission for the opportunity to speak. Mr. Contreras pointed out that 17 property
9 owners are in opposition to the request. He recommended that the request not be
10 approved. He felt that the notification map was incorrect and does not show all
11 property owners that would be impacted. Mr. Contreras said that the utility easement
12 has affected the surrounding properties for years and that the area has limited access.
13 No one else wished to speak and the public hearing was closed.

14
15 Commissioner Becerra stated that he did not understand why Mr. Contreras was in
16 opposition to the request. He asked Mr. Contreras to approach the podium and clarify
17 his opposition. Commissioner Becerra explained that visually he found it difficult to
18 prefer the original over the new request.

19
20 Frank Contreras, 213 Parker Drive explained that noise is an issue as well as
21 aesthetics. He stated that the request does not conform to the building code standards.

22
23 Vice Chair DeSoto asked staff if there would be significant aesthetic harm if Red
24 Simon Ford was required to remain with stucco. He added that he will take into
25 consideration the 17 letters in opposition.

26
27 Commissioner Seebeck commented that the building is in desperate need of repair and
28 is required to uphold the Ford standards.

29
30 Chance Sparks explained that the applicant was originally going to repair the building;
31 they were required to get approval from Ford. Ford requires a modernized appearance.

32
33 Ruben Becerra commented that he does not have a problem voting in favor of the
34 request because he felt this is a good direction for IH 35.

35
36 Commissioner Cline pointed out the letters in opposition and stated that the letters do
37 not explain why the property owners are in opposition to the request.

38
39 Vice Chair DeSoto asked staff if the site plan was available to the concerned property
40 owners.

41
42 Chance Sparks explained that property owners within 200 feet receive a public hearing
43 notice, location map and a phone number for them to call.

44

45

46

47

1 COMMISSIONER SEEBECK MADE A MOTION TO APPROVE CUP-08-03 TO
2 ALLOW ARCHITECTURAL METAL FAÇADE AT RED SIMON FORD, 1305 IH 35
3 SOUTH. COMMISSIONER TAYLOR SECONDED THE MOTION. ROLL WAS
4 CALLED AND THE MOTION PASSED ON A VOTE OF 8-0 WITH CHAIR TERRY,
5 VICE CHAIR DESOTO AND COMMISSIONERS BISHOP, BRYAN, TAYLOR, CLINE,
6 BECERRA AND SEEBECK VOTING AYE. COMMISSIONER THOMASON WAS
7 ABSENT.
8
9

10 CUP-08-04. Hold a public hearing and consider a request by Michael Harper, on
11 behalf of Sean Patrick's Irish Pub and Texas Grub, for a renewal of a TABC
12 Conditional Use Permit to allow the on premise consumption of mixed beverages,
13 beer and wine for a restaurant located at 202 East San Antonio Street.
14

15 Chance Sparks advised the Commission that Sean Patrick's is located on the bottom
16 floor of the Keaton Griffin (Too Bitter) building. There are no off-street parking
17 requirements due to its location in the Central Business Area. Mr. Sparks added that
18 the business has maintained the hours for alcohol sales and does not provide live
19 music on a regular basis. On occasion, the Pub will host acoustic Irish folk music on
20 Irish holidays. Mr. Sparks recapped the November 2007 renewal request and
21 mentioned that the Commission gave a one year approval, rather than the typical three
22 year approval, and required them to maintain monthly reporting. In December 2008,
23 staff received a letter from the owner requesting reconsideration based on improper
24 reporting of alcohol sales. He explained that the CPA had neglected to discount the
25 liquor tax and staff believes all local and state taxes should be eliminated from the
26 reporting of sales. Mr. Sparks continued to explain that based on the corrected
27 reporting for the recent nine-month report (April-December 2007), alcohol sales have
28 accounted for 48.2% of total sales. The percent complies with the definition of a "bona
29 fide restaurant" set forth in the Land Development Code. Staff recommended approval
30 for three years subject to the point system compliance, submitting quarterly reports of
31 sales receipts for alcohol and food sales, meeting the reporting requirements as set
32 forth in Section 4.3.4.2(b)(7) of the Land Development Code and not providing amplified
33 music without first amending the CUP.
34

35 Chair Terry opened the public hearing. Anthony Webb, representing Cat's Billiards and
36 Dillinger's, spoke against the request. He stated that the City should view day-to-day
37 operations of Sean Patrick's. Mr. Webb felt that Sean Patrick's does not meet food
38 sales for a bona fide restaurant. He pointed out that all businesses in the CBA should
39 comply with the Code.
40

41 Mike Harper, representing Sean Patrick's, spoke in support of the conditional use
42 permit request. He thanked the Commission for the first approval and consideration of
43 the request. Mr. Harper explained that the accounting firm had neglected to discount
44 the liquor tax which accounted for the incorrect sales report. No one else chose to
45 speak and the public hearing was closed.
46

1 Commissioner Bishop asked staff if the statistics in the report that shows 51% food
2 sales for Sean Patrick's was accurate.

3
4 Chance Sparks stated that he had not reason to doubt the numbers submitted by a
5 CPA.

6
7 Commissioner Becerra asked Mr. Harper what his food sales were on an average day.

8
9 Mick Harper stated that Sean Patrick's food sales are 51% or greater and 49% or less
10 in alcohol. He explained that in the beginning of the year the TABC was giving a report
11 by the Texas Comptroller classifying Sean Patrick's as a bar not a restaurant. Mr.
12 Harper said after talking with the Comptroller's office, they also agreed because the
13 way the standards are written classified the business as a bar. He pointed out that the
14 CUP does not have language as what a State or Federal Agency may classify a
15 business. He stated he was required to provide sales receipts and stands behinds the
16 numbers.

17
18 **COMMISSIONER SEEBECK MADE A MOTION TO APPROVE CUP-08-04 FOR**
19 **THREE YEARS SUBJECT TO THE POINT SYSTEM COMPLIANCE, SUBMITTING**
20 **QUARTERLY REPORTS OF SALES RECEIPTS FOR ALCOHOL AND FOOD SALES,**
21 **MEETING THE REPORTING REQUIREMENTS AS SET FORTH IN SECTION**
22 **4.3.4.2(B)(7) OF THE LAND DEVELOPMENT CODE AND NOT PROVIDING**
23 **AMPLIFIED MUSIC WITHOUT FIRST AMENDING THE CUP. COMMISSIONER**
24 **CLINE SECONDED THE MOTION. ROLL WAS CALLED AND THE MOTION**
25 **PASSED ON A VOTE OF 8-0 WITH CHAIR TERRY, VICE CHAIR DESOTO AND**
26 **COMMISSIONERS, BECERRA, SEEBECK, BISHOP, TAYLOR, CLINE AND BRYAN**
27 **VOTING AYE. COMMISSIONER THOMASON WAS ABSENT.**

28
29 Chair Terry suggested that the accounting reports be provided to the Commission.

30
31 Cecil Pennington advised that he would meet with the Legal Department to determine
32 what is proprietary information and what can be shared.

33
34
35 **LUA-08-01. Hold a public hearing and consider a request by The Village of San**
36 **Marcos for a Land Use Map Amendment from High Density Residential (HDR) to**
37 **Public and Institutional (P) on 29.61 acres more or less located at 2910 Hunter**
38 **Road.**

39
40 Andy Alarcón advised that the subject tract is located ½ mile from the intersection of
41 McCarty and Hunter Road in the vicinity of the SMCISD bus barn depot. In addition,
42 the property is also adjacent to the ongoing Stonecreek development that fronts IH 35.
43 Mr. Alarcón stated that the applicant is proposing to develop the site as a campus site
44 for non profit, governmental offices and athletic fields that would be open to the public.
45 Staff recommended approval.

Chair Terry opened the public hearing. Pat Tessaro, Executive Director of Hays County Area Food Bank and a member of the Village Board of Directors, stated she was present to address items 9 and 10 of the Planning Commission agenda. She provides a handout to the Commission providing basic information of The Village project and gave a brief overview. Ms. Tessaro stated she was available to answer questions. She introduced Frank Calabrese, who runs the Christian Federation of Police Offices – Police Athletic League, Steve Ramsey and Dave Kneuper with Baker- Aicklen & Associates. No one else wished to speak and the public hearing was closed.

COMMISSIONER BISHOP MADE A MOTION TO APPROVE LUA-08-01. COMMISSIONER SEEBECK SECONDED THE MOTION. ROLL WAS CALLED AND THE MOTION PASSED ON A VOTE OF 8-0 WITH CHAIR TERRY, VICE-CHAIR DESOTO AND COMMISSIONERS BISHOP, BECERRA, CLINE, BRYAN, TAYLOR AND SEEBECK VOTING AYE. COMMISSIONER THOMASON WAS ABSENT.

ZC-08-01. Hold a public hearing and consider a request by The Village of San Marcos for a Zoning Change from Multi-Family 18 (MF-18) to Public (P) on 29.61 acres more or less located at 2901 Hunter Road.

Andy Alarcón advised that the request was in concurrence with the Land Use Map Amendment previously approved request. He pointed out that the property will be addressed on Reimer Street. Mr. Alarcón had no other comments and stated that staff recommended approval of the request.

Chair Terry opened the public hearing. No one wished to speak and the public hearing was closed.

COMMISSIONER BECERRA MADE A MOTION TO APPROVE ZC-08-01. COMMISSIONER CLINE SECONDED THE MOTION. ROLL WAS CALLED AND THE MOTION PASSED ON A VOTE OF 8-0 WITH CHAIR TERRY, VICE CHAIR DESOTO AND COMMISSIONERS BISHOP, CLINE, TAYLOR, BRYAN, BECERRA, AND SEEBECK VOTING AYE. COMMISSIONER THOMASON WAS ABSENT.

PC-07-25(03). Consider a request by Byrn & Associates on behalf of Post Road Partners, LLC, for approval of a Final Plat of Marlton Estates, consisting of approximately 2.07 acres located on the northwest corner of Marlton Street and Hamilton Street.

Phil Steed explained that the proposed development will plat a two acre tract into eleven residential lots. He said that the preliminary plat was approved with conditions in October 2007. The conditions have been met. Mr. Steed informed the Commission that the staff report was written prior to submittal of the revised plat. He provided the Commission with the revised plat in their reading files. Staff recommended approval of the request.

1 COMMISSIONER BECERRA MADE A MOTION TO APPROVE PC-07-25(03).
2 COMMISSIONER BISHOP SECONDED THE MOTION. ROLL WAS CALLED AND
3 THE MOTION PASSED ON A VOTE OF 8-0 WITH CHAIR TERRY, VICE CHAIR
4 DESOTO AND COMMISSIONERS BISHOP, CLINE, TAYLOR, BRYAN, BECERRA,
5 AND SEEBECK VOTING AYE. COMMISSIONER THOMASON WAS ABSENT.

6
7 PC-07-34(04). Consider a request by Pro-Tech Engineering Group, on behalf of
8 Richard L. Burdick, for approval of the vacation and replat of Lots 2 and 3,
9 Stagecoach Professional Center, Section 2, consisting of approximately 5.44
10 acres, located on the northwest corner of Stagecoach and Hunter Road.

11
12 Phil Steed advised the Commission that the revised plat was located in their reading
13 files. He explained that the property currently consists of two lots. The applicant is
14 proposing to replat the property into one lot. Mr. Steed stated that the property is the
15 proposed site of an auto museum and possibly a restaurant. The property is zoned
16 General Commercial and Community Commercial. If the request is approved, the
17 property will be required to rezone to one zoning designation.

18
19 Commissioner Becerra inquired about the zoning designation the applicant has
20 requested.

21
22 Cecil Pennington advised that General Commercial is the zoning designation for the
23 entire property. He pointed out that the auto museum and the restaurant is permitted
24 by right in General and Community Commercial. Mr. Pennington added that the
25 restaurant has chosen to include a drive through service that will require a conditional
26 use permit.

27
28 Commissioner Becerra pointed out that General Commercial is a high density use and
29 is located in a neighborhood.

30
31 Phil Steed stated that the request is subject to all the Land Development Code
32 requirements. He pointed out that the staff report was written prior to the revised plat
33 being submitted, therefore all conditions have been met. Staff recommended approval
34 of the request with the condition that the zoning change be complete prior to
35 recordation of the plat.

36
37 COMMISSIONER SEEBECK MADE A MOTION TO APPROVE PC-07-34(04) TO
38 VACATE AND REPLAT LOTS 2 AND 3 OF STAGECOACH PROFESSIONAL
39 CENTER SECTION 2 INTO 1 LOT WITH THE CONDITION THAT THE ZONING
40 CHANGE BE COMPLETE PRIOR TO RECORDATION OF THE PLAT.
41 COMMISSIONER BISHOP SECONDED THE MOTION. ROLL WAS CALLED AND
42 THE MOTION PASSED ON A VOTE OF 8-0 WITH CHAIR TERRY, VICE CHAIR
43 DESOTO AND COMMISSIONERS BISHOP, CLINE, TAYLOR, BRYAN, BECERRA,
44 AND SEEBECK VOTING AYE. COMMISSIONER THOMASON WAS ABSENT.

1 Commissioner Becerra encouraged the applicant to consider a lower density use for the
2 property because of the location near area schools and high pedestrian traffic. He
3 suggested Community Commercial and Neighborhood Commercial which best fits their
4 needs.

5
6 Commissioner Bryan stated he also had a concern because of the school in the area.
7

8 **Planning Issues:**

9
10 **Downtown Master Plan Update.**

11
12
13 Andy Alarcón gave a brief update regarding the Downtown Master Plan. He advised the
14 Commission that staff has received an outline draft of the downtown master plan from
15 the consultants who anticipate a 1st draft of the master plan in early March. Mr.
16 Alarcón stated that once the draft is received, staff will distribute the copies to City
17 Council and the Planning Commission. He anticipated that the copies will be provided
18 with the March 11, 2008 Planning Commission packets.
19
20

21 **Population Report.**

22
23 Chance Sparks gave a brief overview of the City of San Marcos Population Estimates.
24 He referred to the information provided in their agenda packets. He pointed out that as
25 of January 1, 2008 the City's population is 50,371 with the ETJ at 3.0 miles.
26
27

28 **Capital Improvements Plan (CIP) Process.**

29
30 Chance Sparks gave a brief overview of the Revised Capital Improvements Plan
31 Process.
32

33 Chair Terry pointed out the two day workshops on April 2 & 3 and asked the
34 Commission for their availability.
35

36 Chance Sparks asked the Commission to review their calendars and advise staff if they
37 were available.
38

39 Commissioner Bishop commented that it would helpful if the Commission received the
40 notes of discussion by the City Council, other Boards and Commissions and citizen
41 comments prior to receiving the CIP. In addition, he suggested staff include notes
42 regarding high priority projects. Mr. Bishop also suggested that during the public
43 hearing, the audience be provided a project list.
44
45
46
47

Planning Director's Report.

Cecil Pennington introduced John Foreman, new Senior Planning Technician, who is located in the Permit Center. He pointed out that John will be responsible for site preparation plan review, sign permits, fence permits and sections of the building permits.

John Foreman introduced himself to the Planning Commission.

The Commission welcomed him aboard.

Commissioner's Report

Vice Chair DeSoto mentioned that he saw the new airport redesign and was impressed. He encouraged all to view the design.

Commission Becerra asked if there could be an overlay district for the railroad. He expressed concerns regarding the excessive horns at night.

Cecil Pennington advised that the horns are regulated by the Railroad Authority. He pointed out that the Quite Zone Committee is reviewing the types of changes to intersections that would have to be put in place to reduce the honking of the horns. Mr. Pennington mentioned that he thought honking of horns for freight rails is not possible.

Commissioner Bishop provided the Commissioners with a CD with the 2006/2007 Planning Commission agendas and minutes.

MINUTES.**Consider approval of the minutes from the Regular Meeting of January 22, 2008.**

COMMISSIONER BECERRA MADE A MOTION TO APPROVE THE MINUTES FROM THE REGULAR MEETING OF JANUARY 22, 2008 WITH AMENDMENTS. COMMISSIONER SEEBECK SECONDED THE MOTION. ROLL WAS CALLED AND THE MOTION PASSED ON A VOTE OF 6-0-2 WITH CHAIR TERRY, VICE-CHAIR DESOTO AND COMMISSIONERS BISHOP, BECERRA, SEEBECK AND BRYAN VOTING AYE. COMMISSIONERS CLINE AND TAYLOR ABSTAINED AND COMMISSIONER THOMASON WAS ABSENT.

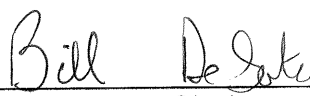
QUESTIONS FROM PRESS AND PUBLIC

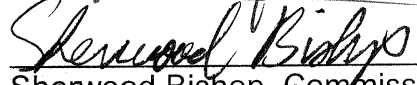
No questions from the press and public.

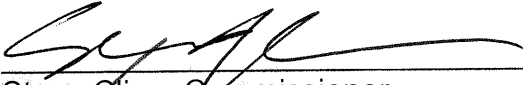
1 COMMISSIONER BECERRA MADE A MOTION TO ADJOURN THE MEETING.
2 COMMISSIONER SEEBECK SECONDED THE MOTION. ROLL WAS CALLED AND
3 THE MOTION PASSED ON A VOTE OF 8-0 WITH CHAIR TERRY, VICE-CHAIR
4 DESOTO AND COMMISSIONERS BISHOP, BECERRA, SEEBECK, CLINE, BRYAN
5 AND TAYLOR VOTING AYE. COMMISSIONER THOMASON WAS ABSENT.
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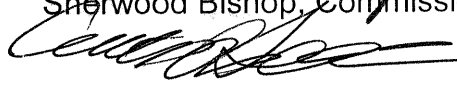
10 THE MEETING ADJOURNED AT 7:58 P.M.
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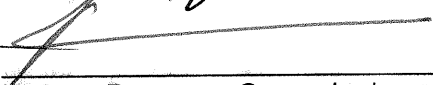
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16 
Fred A. Terry, Chair


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Bill DeSoto, Vice-Chair

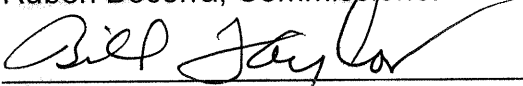
19 
Sherwood Bishop, Commissioner

20 
Steve Cline, Commissioner

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22 
Curtis Seebeck, Commissioner

23
24 
Ruben Becerra, Commissioner

25 
Randy Bryan, Commissioner

26
27 
Bill Taylor, Commissioner

28 ATTEST:

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30 
Francis Serna, Recording Secretary
31